

Local Form 19

September 2021

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
SHELBY DIVISION

IN RE:

CLEMMER'S CONSTRUCTION, LLC

Debtor.

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CASE NO. 23-40136
CHAPTER 11

COVER SHEET FOR AMENDED SCHEDULES AND STATEMENTS

Briefly describe the amendments to the Debtor's schedules and statements below, including the names of the schedules and/or statements being amended and any creditors added or removed.

Amended Statement of Financial Affairs – Changes to nos. 3, 4, 13 and 30

Date: October 3, 2023

/s/ R. Keith Johnson

Attorney for Debtor

R. KEITH JOHNSON, Esq.
1275 S. NC 16 Bus. Hwy.
Stanley, NC 28164
(704) 827-4200
NCSB 8840

Fill in this information to identify the case:

Debtor name Clemmer's Construction, LLC

United States Bankruptcy Court for the: WESTERN DISTRICT OF NORTH CAROLINA

Case number (if known) 23-40136

☐ Check if this is an amended filing

Official Form 207

Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy

04/22

The debtor must answer every question. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and case number (if known).

Part 1: Income

1. Gross revenue from business

☐ None.

Identify the beginning and ending dates of the debtor's fiscal year, which may be a calendar year

From the beginning of the fiscal year to filing date:
From 1/01/2023 to Filing Date

Sources of revenue
Check all that apply

☒ Operating a business
☐ Other _____

Gross revenue
(before deductions and exclusions)

\$1,327,785.00

For prior year:
From 1/01/2022 to 12/31/2022

☒ Operating a business
☐ Other _____

\$845,275.00

2. Non-business revenue

Include revenue regardless of whether that revenue is taxable. *Non-business income* may include interest, dividends, money collected from lawsuits, and royalties. List each source and the gross revenue for each separately. Do not include revenue listed in line 1.

☒ None.

Description of sources of revenue

Gross revenue from each source
(before deductions and exclusions)

Part 2: List Certain Transfers Made Before Filing for Bankruptcy

3. Certain payments or transfers to creditors within 90 days before filing this case

List payments or transfers—including expense reimbursements—to any creditor, other than regular employee compensation, within 90 days before filing this case unless the aggregate value of all property transferred to that creditor is less than \$7,575. (This amount may be adjusted on 4/01/25 and every 3 years after that with respect to cases filed on or after the date of adjustment.)

☐ None.

Creditor's Name and Address

Dates

Total amount of value

Reasons for payment or transfer
Check all that apply

3.1. Apple Advance

Various dates in May 2023

\$7,788.00

☐ Secured debt
☐ Unsecured loan repayments
☐ Suppliers or vendors
☐ Services
☒ Other MCA Lender

Debtor **Clemmer's Construction, LLC**

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Creditor's Name and Address	Dates	Total amount of value	Reasons for payment or transfer <i>Check all that apply</i>
3.2. Churchill Capital	Various dates in June 2023	\$7,250.00	<input type="checkbox"/> Secured debt <input type="checkbox"/> Unsecured loan repayments <input type="checkbox"/> Suppliers or vendors <input type="checkbox"/> Services <input checked="" type="checkbox"/> Other <u>MCA Lender</u>
3.3. Genesis Equity Group	Various dates in May and June 2023	\$34,322.50	<input type="checkbox"/> Secured debt <input type="checkbox"/> Unsecured loan repayments <input type="checkbox"/> Suppliers or vendors <input type="checkbox"/> Services <input checked="" type="checkbox"/> Other <u>MCA Lender</u>
3.4. NFG Advance	Various dates in May 2023	\$15,000.00	<input type="checkbox"/> Secured debt <input type="checkbox"/> Unsecured loan repayments <input type="checkbox"/> Suppliers or vendors <input type="checkbox"/> Services <input checked="" type="checkbox"/> Other <u>MCA Lender</u>
3.5. LCF Group	6/21/2023	\$13,500.00	<input type="checkbox"/> Secured debt <input type="checkbox"/> Unsecured loan repayments <input type="checkbox"/> Suppliers or vendors <input type="checkbox"/> Services <input checked="" type="checkbox"/> Other <u>MCA Lender</u>
3.6. Brian Burch	Various dates in May, June and July 2023	\$7,290.00	<input type="checkbox"/> Secured debt <input type="checkbox"/> Unsecured loan repayments <input type="checkbox"/> Suppliers or vendors <input type="checkbox"/> Services <input checked="" type="checkbox"/> Other <u>1099 Labor</u>
3.7. Chris Stamper	Various dates in May, June and July 2023	\$13,780.00	<input type="checkbox"/> Secured debt <input type="checkbox"/> Unsecured loan repayments <input type="checkbox"/> Suppliers or vendors <input type="checkbox"/> Services <input checked="" type="checkbox"/> Other <u>1099 Labor</u>
3.8. Dave Williams	Various dates in May, June and July 2023	\$12,200.00	<input type="checkbox"/> Secured debt <input type="checkbox"/> Unsecured loan repayments <input type="checkbox"/> Suppliers or vendors <input type="checkbox"/> Services <input checked="" type="checkbox"/> Other <u>1099 Labor</u>
3.9. Rudy Estrada	Various dates in May and June 2023	\$35,000.00	<input type="checkbox"/> Secured debt <input type="checkbox"/> Unsecured loan repayments <input type="checkbox"/> Suppliers or vendors <input type="checkbox"/> Services <input checked="" type="checkbox"/> Other <u>1099 Labor</u>

Debtor **Clemmer's Construction, LLC**

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Creditor's Name and Address	Dates	Total amount of value	Reasons for payment or transfer <i>Check all that apply</i>
3.10 Rusty Ollis	Various dates in May and June 2023	\$9,398.00	<input type="checkbox"/> Secured debt <input type="checkbox"/> Unsecured loan repayments <input type="checkbox"/> Suppliers or vendors <input type="checkbox"/> Services <input checked="" type="checkbox"/> Other <u>1099 Labor</u>
3.11 Commercial Credit Group 525 N. Tryon St., Ste. 1000 Charlotte, NC 28202	Various dates in May and June 2023	\$14,967.00	<input type="checkbox"/> Secured debt <input type="checkbox"/> Unsecured loan repayments <input checked="" type="checkbox"/> Suppliers or vendors <input type="checkbox"/> Services <input type="checkbox"/> Other__
3.12 Concrete Supply Co. 3823 Raleigh St. Charlotte, NC 28206	Various dates in May and June 2023	\$32,226.88	<input type="checkbox"/> Secured debt <input type="checkbox"/> Unsecured loan repayments <input checked="" type="checkbox"/> Suppliers or vendors <input type="checkbox"/> Services <input type="checkbox"/> Other__
3.13 Discover E-payment	Various dates in May and June 2023	\$8,095.00	<input type="checkbox"/> Secured debt <input type="checkbox"/> Unsecured loan repayments <input checked="" type="checkbox"/> Suppliers or vendors <input type="checkbox"/> Services <input type="checkbox"/> Other__
3.14 Lowe's c/o Synchrony Bank Attn: Bankruptcy Dept. P. O. Box 965060 Orlando, FL 32896-5060	Various dates in May, June, July and August 2023	\$8,245.29	<input type="checkbox"/> Secured debt <input type="checkbox"/> Unsecured loan repayments <input checked="" type="checkbox"/> Suppliers or vendors <input type="checkbox"/> Services <input type="checkbox"/> Other__
3.15 Tri City Concrete	Various dates in May 2023	\$7,909.11	<input type="checkbox"/> Secured debt <input type="checkbox"/> Unsecured loan repayments <input checked="" type="checkbox"/> Suppliers or vendors <input type="checkbox"/> Services <input type="checkbox"/> Other__
3.16 Venmo Visa Direct	Various dates in May, June, July and August 2023	\$13,320.00	<input type="checkbox"/> Secured debt <input type="checkbox"/> Unsecured loan repayments <input checked="" type="checkbox"/> Suppliers or vendors <input type="checkbox"/> Services <input type="checkbox"/> Other__
3.17 Lakeview	Various dates in June 2023	\$6,913.64	<input type="checkbox"/> Secured debt <input type="checkbox"/> Unsecured loan repayments <input type="checkbox"/> Suppliers or vendors <input type="checkbox"/> Services <input checked="" type="checkbox"/> Other <u>Mortgage payments for benefit of Michael Clemmer</u>

Debtor **Clemmer's Construction, LLC**Case number (if known) **23-40136****4. Payments or other transfers of property made within 1 year before filing this case that benefited any insider**

List payments or transfers, including expense reimbursements, made within 1 year before filing this case on debts owed to an insider or guaranteed or cosigned by an insider unless the aggregate value of all property transferred to or for the benefit of the insider is less than \$7,575. (This amount may be adjusted on 4/01/25 and every 3 years after that with respect to cases filed on or after the date of adjustment.) Do not include any payments listed in line 3. *Insiders* include officers, directors, and anyone in control of a corporate debtor and their relatives; general partners of a partnership debtor and their relatives; affiliates of the debtor and insiders of such affiliates; and any managing agent of the debtor. 11 U.S.C. § 101(31).

☐ None.

Insider's name and address Relationship to debtor	Dates	Total amount of value	Reasons for payment or transfer
4.1. Lakeview Loan	6/13/2023 - \$1,724.66, 6/14/2023 - \$3,464.00, 6/21/2023 - \$1,724.66	\$6,913.64	Also see SOFA #3 Mortgage payments for Michael Clemmer
4.2. Clemmers Landscape	9/7/2022 - \$1,145.00, 9/8/2022 - \$8,500.00	\$9,645.00	
4.3. Clemmers Return	12/28/2022	\$3,045.80	
4.4. Michael Clemmer	11/3/2022 - \$4300.00, 12/02/2022 - 3,800.00, 12/19/2022 - \$200.00	\$8,300.00	
4.5. Sara Clemmer	8/23/2022 - \$1,200.00, 8/29/2022 - \$1,200.00, 10/29/2022 - \$1,000.00, 1/9/2023 - \$300.00, 3/13/2023 - 1,200.00, 6/14/2023 - \$800.00	\$5,700.00	Salary when funds are available

5. Repossessions, foreclosures, and returns

List all property of the debtor that was obtained by a creditor within 1 year before filing this case, including property repossessed by a creditor, sold at a foreclosure sale, transferred by a deed in lieu of foreclosure, or returned to the seller. Do not include property listed in line 6.

☒ None

Creditor's name and address	Describe of the Property	Date	Value of property
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6. Setoffs

List any creditor, including a bank or financial institution, that within 90 days before filing this case set off or otherwise took anything from an account of the debtor without permission or refused to make a payment at the debtor's direction from an account of the debtor because the debtor owed a debt.

☒ None

Creditor's name and address	Description of the action creditor took	Date action was taken	Amount
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Part 3: Legal Actions or Assignments

Debtor **Clemmer's Construction, LLC**

Case number (if known) **23-40136**

7. Legal actions, administrative proceedings, court actions, executions, attachments, or governmental audits

List the legal actions, proceedings, investigations, arbitrations, mediations, and audits by federal or state agencies in which the debtor was involved in any capacity—within 1 year before filing this case.

☒ None.

Case title Case number	Nature of case	Court or agency's name and address	Status of case
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8. Assignments and receivership

List any property in the hands of an assignee for the benefit of creditors during the 120 days before filing this case and any property in the hands of a receiver, custodian, or other court-appointed officer within 1 year before filing this case.

☒ None

Part 4: Certain Gifts and Charitable Contributions

9. List all gifts or charitable contributions the debtor gave to a recipient within 2 years before filing this case unless the aggregate value of the gifts to that recipient is less than \$1,000

☒ None

Recipient's name and address	Description of the gifts or contributions	Dates given	Value
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Part 5: Certain Losses

10. All losses from fire, theft, or other casualty within 1 year before filing this case.

☒ None

Description of the property lost and how the loss occurred	Amount of payments received for the loss If you have received payments to cover the loss, for example, from insurance, government compensation, or tort liability, list the total received. List unpaid claims on Official Form 106A/B (Schedule A/B: Assets – Real and Personal Property).	Dates of loss	Value of property lost
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Part 6: Certain Payments or Transfers

11. Payments related to bankruptcy

List any payments of money or other transfers of property made by the debtor or person acting on behalf of the debtor within 1 year before the filing of this case to another person or entity, including attorneys, that the debtor consulted about debt consolidation or restructuring, seeking bankruptcy relief, or filing a bankruptcy case.

☐ None.

Who was paid or who received the transfer? Address	If not money, describe any property transferred	Dates	Total amount or value
11.1. R. Keith Johnson 1275 S. NC 16 Bus. Hwy. Stanley, NC 28164		3 August 2023	\$5,650.00
Email or website address			
Who made the payment, if not debtor?			

12. Self-settled trusts of which the debtor is a beneficiary

List any payments or transfers of property made by the debtor or a person acting on behalf of the debtor within 10 years before the filing of this case to a self-settled trust or similar device.

Debtor **Clemmer's Construction, LLC**

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Do not include transfers already listed on this statement.

☒ None.

Name of trust or device	Describe any property transferred	Dates transfers were made	Total amount or value
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13. Transfers not already listed on this statement

List any transfers of money or other property by sale, trade, or any other means made by the debtor or a person acting on behalf of the debtor within 2 years before the filing of this case to another person, other than property transferred in the ordinary course of business or financial affairs. Include both outright transfers and transfers made as security. Do not include gifts or transfers previously listed on this statement.

☐ None.

Who received transfer? Address	Description of property transferred or payments received or debts paid in exchange	Date transfer was made	Total amount or value
13.1 Unknown	In early 2023 the Debtor and Michael Clemmer traded a single-axle road tractor and lowboy trailer for the 1997 Ford L9000 dump truck listed on Schedule A/B. The lowboy was the result of a trade wherein the Debtor and Michael Clemmer transferred the 2007 F-450 and a single axle dump truck for the lowboy trailer.	January, 2023	Unknown
Relationship to debtor None			
13.2 See #3 above			\$0.00
Relationship to debtor			

Part 7: Previous Locations

14. Previous addresses

List all previous addresses used by the debtor within 3 years before filing this case and the dates the addresses were used.

☒ Does not apply

Address	Dates of occupancy From-To
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Part 8: Health Care Bankruptcies

15. Health Care bankruptcies

Is the debtor primarily engaged in offering services and facilities for:

- diagnosing or treating injury, deformity, or disease, or
- providing any surgical, psychiatric, drug treatment, or obstetric care?

☒ No. Go to Part 9.

☐ Yes. Fill in the information below.

Facility name and address	Nature of the business operation, including type of services the debtor provides	If debtor provides meals and housing, number of patients in debtor's care
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Part 9: Personally Identifiable Information

Debtor **Clemmer's Construction, LLC**

Case number (if known) **23-40136**

16. Does the debtor collect and retain personally identifiable information of customers?

- ☒ No.
☐ Yes. State the nature of the information collected and retained.

17. Within 6 years before filing this case, have any employees of the debtor been participants in any ERISA, 401(k), 403(b), or other pension or profit-sharing plan made available by the debtor as an employee benefit?

- ☒ No. Go to Part 10.
☐ Yes. Does the debtor serve as plan administrator?

Part 10: Certain Financial Accounts, Safe Deposit Boxes, and Storage Units

18. Closed financial accounts

Within 1 year before filing this case, were any financial accounts or instruments held in the debtor's name, or for the debtor's benefit, closed, sold, moved, or transferred?
 Include checking, savings, money market, or other financial accounts; certificates of deposit; and shares in banks, credit unions, brokerage houses, cooperatives, associations, and other financial institutions.

☐ None

	Financial Institution name and Address	Last 4 digits of account number	Type of account or instrument	Date account was closed, sold, moved, or transferred	Last balance before closing or transfer
18.1.	Peoples Bank Newton, NC 28658	XXXX-3462	<input checked="" type="checkbox"/> Checking <input type="checkbox"/> Savings <input type="checkbox"/> Money Market <input type="checkbox"/> Brokerage <input type="checkbox"/> Other___	31 January 2023 Balance at closing was -\$20,046	\$0.00

19. Safe deposit boxes

List any safe deposit box or other depository for securities, cash, or other valuables the debtor now has or did have within 1 year before filing this case.

☒ None

Depository institution name and address	Names of anyone with access to it Address	Description of the contents	Does debtor still have it?
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20. Off-premises storage

List any property kept in storage units or warehouses within 1 year before filing this case. Do not include facilities that are in a part of a building in which the debtor does business.

☒ None

Facility name and address	Names of anyone with access to it	Description of the contents	Does debtor still have it?
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Part 11: Property the Debtor Holds or Controls That the Debtor Does Not Own

21. Property held for another

List any property that the debtor holds or controls that another entity owns. Include any property borrowed from, being stored for, or held in trust. Do not list leased or rented property.

☒ None

Part 12: Details About Environment Information

For the purpose of Part 12, the following definitions apply:

Debtor **Clemmer's Construction, LLC**

Case number (if known) **23-40136**

Environmental law means any statute or governmental regulation that concerns pollution, contamination, or hazardous material, regardless of the medium affected (air, land, water, or any other medium).

Site means any location, facility, or property, including disposal sites, that the debtor now owns, operates, or utilizes or that the debtor formerly owned, operated, or utilized.

Hazardous material means anything that an environmental law defines as hazardous or toxic, or describes as a pollutant, contaminant, or a similarly harmful substance.

Report all notices, releases, and proceedings known, regardless of when they occurred.

22. Has the debtor been a party in any judicial or administrative proceeding under any environmental law? Include settlements and orders.

- ☒ No.
☐ Yes. Provide details below.

Case title Case number	Court or agency name and address	Nature of the case	Status of case
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23. Has any governmental unit otherwise notified the debtor that the debtor may be liable or potentially liable under or in violation of an environmental law?

- ☒ No.
☐ Yes. Provide details below.

Site name and address	Governmental unit name and address	Environmental law, if known	Date of notice
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24. Has the debtor notified any governmental unit of any release of hazardous material?

- ☒ No.
☐ Yes. Provide details below.

Site name and address	Governmental unit name and address	Environmental law, if known	Date of notice
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Part 13: Details About the Debtor's Business or Connections to Any Business

25. Other businesses in which the debtor has or has had an interest

List any business for which the debtor was an owner, partner, member, or otherwise a person in control within 6 years before filing this case. Include this information even if already listed in the Schedules.

- ☒ None

Business name address	Describe the nature of the business	Employer Identification number Do not include Social Security number or ITIN. Dates business existed
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26. Books, records, and financial statements

26a. List all accountants and bookkeepers who maintained the debtor's books and records within 2 years before filing this case.

- ☒ None

Name and address	Date of service From-To
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26b. List all firms or individuals who have audited, compiled, or reviewed debtor's books of account and records or prepared a financial statement within 2 years before filing this case.

- ☒ None

26c. List all firms or individuals who were in possession of the debtor's books of account and records when this case is filed.

- ☐ None

Name and address	If any books of account and records are unavailable, explain why
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Debtor **Clemmer's Construction, LLC**

Case number (if known) **23-40136**

Name and address

If any books of account and records are unavailable, explain why

26c.1. **Michael Clemmer**
Lincolnton, NC 28092

26d. List all financial institutions, creditors, and other parties, including mercantile and trade agencies, to whom the debtor issued a financial statement within 2 years before filing this case.

☐ None

Name and address

26d.1. **Commercial Credit Group**
525 N. Tryon St., Ste. 1000
Charlotte, NC 28202

27. Inventories

Have any inventories of the debtor's property been taken within 2 years before filing this case?

- ☒ No
☐ Yes. Give the details about the two most recent inventories.

Name of the person who supervised the taking of the inventory

Date of inventory

The dollar amount and basis (cost, market, or other basis) of each inventory

28. List the debtor's officers, directors, managing members, general partners, members in control, controlling shareholders, or other people in control of the debtor at the time of the filing of this case.

Name	Address	Position and nature of any interest	% of interest, if any
Michael Clemmer	Lincolnton, NC 28092	Member/manager	100%

29. Within 1 year before the filing of this case, did the debtor have officers, directors, managing members, general partners, members in control of the debtor, or shareholders in control of the debtor who no longer hold these positions?

- ☒ No
☐ Yes. Identify below.

30. Payments, distributions, or withdrawals credited or given to insiders

Within 1 year before filing this case, did the debtor provide an insider with value in any form, including salary, other compensation, draws, bonuses, loans, credits on loans, stock redemptions, and options exercised?

- ☐ No
☒ Yes. Identify below.

Name and address of recipient

Amount of money or description and value of property

Dates

Reason for providing the value

30.1 **Clemmers Return**

12/28/2022

Tax payments

Relationship to debtor

Debtor **Clemmer's Construction, LLC**

Case number (if known) **23-40136**

	Name and address of recipient	Amount of money or description and value of property	Dates	Reason for providing the value
30.2	Michael Clemmer		11/3/2022 - \$4,300.00; 12/02/2022 - \$3,800.00; 12/19/2022 - 200.00	Salary when funds are available
	Relationship to debtor			
30.3	Sara Clemmer		8/23/2022 - \$1,200.00, 8/29/2022 - \$1,200.00, 10/29/2022 - \$1,000.00, 1/9/2023 - \$300.00, 3/13/2023 - 1,200.00, 6/14/2023 - \$800.00	Salary when funds are available
	Relationship to debtor			
30.4	Lakeview Loan		6/13/2023 - \$1,724.66; 6/14/2023 - \$3,464.32; 6/21/2023 - \$1,724.66	Mortgage payments for Michael Clemmer
	Relationship to debtor			

31. Within 6 years before filing this case, has the debtor been a member of any consolidated group for tax purposes?

- ☒ No
☐ Yes. Identify below.

Name of the parent corporation

Employer identification number of the parent corporation

32. Within 6 years before filing this case, has the debtor as an employer been responsible for contributing to a pension fund?

- ☒ No
☐ Yes. Identify below.

Name of the pension fund

Employer identification number of the pension fund

Debtor **Clemmer's Construction, LLC**

Case number (if known) **23-40136**

Part 14: Signature and Declaration

WARNING -- Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

I have examined the information in this *Statement of Financial Affairs* and any attachments and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on **October 3, 2023**

/s/ Michael G. Clemmer

Signature of individual signing on behalf of the debtor

Michael G. Clemmer

Printed name

Position or relationship to debtor

Are additional pages to *Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy* (Official Form 207) attached?

☐ No

☒ Yes

CLEMMER'S CONSTRUCTION, LLC

CASE NO. 23-40136

ATTACHMENT TO STATEMENT OF FINANCIAL AFFAIRS #3, #4, #13 and #30

Prior to forming the Debtor and engaging in the business of commercial concrete installation and repairs, the owner of Clemmer's Construction, LLC, Michael Clemmer, owned and operated a business known as Clemmer's Landscape, Inc., which was engaged primarily in residential hardscape installation, and other residential landscape projects. Clemmer's Landscape, Inc. became involved with so-called MCA lenders who allegedly purchased receivables, and then filed UCC Financing Statements. Those lenders took direct withdrawals from the bank accounts of Clemmer's Landscape, Inc.

Through unknown channels, those MCA lenders became aware of the bank accounts of Clemmer's Construction, LLC, although Clemmer's Construction, LLC did not guarantee any of the MCA lenders, and Clemmer's Construction, LLC, in fact, was not in existence at the time the said loans were made, nor was it operating any business at that time. However, upon learning the bank account numbers and information of Clemmer's Construction, LLC, the so-called MCA lenders somehow convinced the bank holding the demand deposit account of Clemmer's Construction, LLC to allow ACH withdrawals. Upon learning that this was happening, new bank accounts were opened for Clemmer's Construction, LLC and its initial operating account was no longer used.

Consequently, the bank records of Clemmer's Construction, LLC (which began operation in August 2022) show various debits in favor of the MCA lenders that were not and are not creditors of Clemmer's Construction, LLC.

In order to provide information and answers to questions no. 3, 4, 13, and 30 of the Statement of Financial Affairs, Clemmer's Construction, LLC has retained Ed Bowers, CPA, to assist it in preparing analysis of its bank statements in order to provide the information relating to those questions.